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June 1, 2004

Ms. Robin Sweeney
EIS Documents Manager
Office of National Transportation
Office of Civilian Radioactive Waste Management
1551 Hillshire Drive, MS011
Las Vegas, Nevada 89134

Re: Citizen Alert's Comments to the U.S. Department of Energy's Notice of Intent to Prepare an Environmental Impact Statement for the Alignment, Construction and Operation of a Rail Line to a Geographic Repository at Yucca Mountain, Nye County, Nevada Desert Experience

Dear Ms. Sweeney:

Attached is the document prepared to present the formal comments of Citizen Alert on the proposed Caliente Rail Line. I am sure it will come as no surprise to you that this organization finds your findings and your process less than appropriate.

If you have any questions or if there are issues that you need to obtain clarification on, please do not hesitate to call me at: [REDACTED]

Sincerely:

Peggy Maze Johnson
Peggy Maze Johnson
Executive Director

Attachment

cc: Bob Loux, State of Nevada Agency For Nuclear Projects
Attorney General Brian Sandoval
Ross Miller, President, Citizen Alert Board of Directors

Citizen Alert's Comments to the U.S. Department of Energy's Notice of Intent to prepare an Environmental Impact Statement for the Alignment, Construction, and Operation of a Rail Line to a Geologic Repository at Yucca Mountain, Nye County, Nevada

Public Process

Citizen Alert believes that the Department of Energy's scoping process for the proposed Caliente nuclear waste rail corridor totally fails to satisfy the spirit and intent of the National Environmental Policy Act (NEPA). Representatives of our organization who attended the five recent "open houses" held in Amargosa Valley, Goldfield, Caliente, Reno and Las Vegas were treated to a slick DOE public relations show designed to promote nuclear waste transportation as absolutely safe while at the same time denying citizens the opportunity to voice their concerns in a public forum. The feedback we have received from residents of rural communities affected is that these open houses were pointless because they had to literally sit in a corner away from their neighbors and deliver their comments sotto voce to a court reporter. The questions they had about the impact of the rail corridor on their ranching operations, the health effects on their families, the danger of transportation accidents, etc., could only be asked by buttonholing one of the many DOE representatives *who may or may not have been qualified to provide the answer*. Worse, these serious concerns expressed by individuals to DOE representatives were off the record and will not be part of the public transcript.

These five carefully managed open houses were in no way public hearings and the entire process leads Citizen Alert to conclude that DOE has already decided to proceed with the Caliente rail corridor and the public be damned!

Secondly, DOE's scoping process totally ignores the impact of the mostly-rail scenario on the many states, hundreds of communities and millions of residents outside Nevada who live along the transportation lines that will deliver the nuclear waste to the Caliente depot. The scoping process cannot be legitimate unless real public hearings are held in every community throughout the United States that will be impacted by the construction of the proposed Caliente rail corridor. Citizen Alert believes that DOE should create a full scoping report as a matter of record and public disclosure. As part of this report we expect full verbatim transcripts of all public comments to be available in DOE reading rooms and on the DOE website as soon as reasonably possible. The scoping report should also include a clear discussion of what would constitute a failure of the Caliente corridor as the primary rail access to Yucca Mountain. Additionally, the short time allotted for the scoping period should be extended to allow the public and affected parties to understand and evaluate the proposed action.

And lastly, the premature and inappropriate selection of the Caliente rail corridor taints the entire Yucca Mountain Final Environmental Impact Statement (EIS) published in February, 2002. One of the weaknesses of the Yucca Mountain EIS is the lack of attention to a detailed analysis of transportation alternatives and DOE's designation of the Caliente corridor denies the public the opportunity to comment on any transportation mode other than DOE's preferred Caliente Route. Citizen Alert believes that DOE must reopen the February, 2002 Final EIS. To not do so is nothing more than putting the cart before the horse!

Transportation Accidents & Terrorism Risks

The Yucca Mountain Final Environmental Impact Statement assumed that a worst case accident in Nevada could be understood in terms of the general national analysis. Citizen Alert does not see this as valid since there are unique conditions in Nevada that constitute significant deviations from the national average. These include earthquake incidence, gas pipeline intersections or impacts, and military activities at the Nevada Test Site. Furthermore, the Caliente spur will involve numerous steep grades, sharp curves and potential tunnels that at the very least increase the risk of accidents. Overall risk analysis should be redone to incorporate the unique conditions of Nevada.

In a post-9/11 environment, the potential for terrorist attacks on trucks or trains carrying spent fuel and other high-level nuclear waste cannot be underestimated. Attorney General John Ashcroft said recently that there are already Al-Qaida operatives in the U.S. who are planning major terrorist events and that the risks

of a terrorist attack on our soil will likely continue for years to come. How can DOE insure the safety of thousands of shipments of waste traversing the country over the next 40 years or so?

Native American Issues

The entire Caliente rail corridor would be constructed on sacred land belonging to the Western Shoshone tribes under the terms of the Ruby Valley Treaty of 1863. Despite pending legislation in Congress to compensate the Western Shoshone for this land, this remains an unresolved dispute between sovereign nations and Citizen Alert believes these issues must be settled before an environmental impact statement can be prepared. If these issues are settled, DOE and the Bureau of Indian Affairs must formally recognize affected tribe status, provide financial and technical assistance and protect cultural and religious sites.

General Impact Categories

It is widely recognized that any accident involving radioactive release could result in massive and long-lasting environmental damage. Even without an accident, however, repeated exposures to routine radiation emitted by shipping containers over long periods of time can result in negative health consequences. The draft EIS must assess health and environmental impacts resulting from the special nuclear nature of the proposed action and alternatives. Citizen Alert also believes that comprehensive health surveys, which have NEVER been done, must be conducted to answer unresolved questions about the health effects on Nevadans resulting from 40 years of nuclear testing at the Nevada Test Site.

In January, 2002, Citizen Alert released an analysis of the Nevada Test Site Early Warning System for Groundwater Contamination Migrating from Pahute Mesa to Oasis Valley. The report revealed five significant findings:

1. Not a single zone of nuclear test residue and the radioactive leachate seeping into the nearby aquifer from approximately 260 shots detonated in or near the groundwater of the NTS has ever been adequately characterized.
2. The on-site groundwater monitoring network, which is supposed to be tracking the hydrological source term beneath the NTS, is designed in such a way to have a very low chance of ever detecting contamination from the nuclear test cavities.
3. Detection of contamination in water from some nearby nuclear tests would seem to be a relatively easy task, that is, for one determined to do so, particularly in the Pahute Mesa area of the NTS.
4. DOE's present Underground Test Area Project (UGTA) has produced only two major products that reveal little, if any, satisfactory understanding of radioactivity in groundwater. External peer reviews found both products unsatisfactory.
5. Three different science-based studies indicate that migration times from Pahute Mesa to Oasis Valley could be very short, resulting in contamination already arriving in Oasis Valley.

The Citizen Alert report recommended that six to twelve new wells be drilled to monitor at least one contamination plume and thus provide a vast amount of new information on the likely flow path and speed of a plume and the existence of contamination. Portions of the proposed Caliente rail corridor include areas that would be needed for the development of these future wells to monitor groundwater flows and these wells must be factored into a draft EIS.

In summary, Citizen Alert believes that DOE's scoping process for the proposed Caliente Rail Corridor is fatally flawed. The only responsible course of action is to start over by reopening the February, 2002 Yucca Mountain Final Environmental Impact Statement.